

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met his burden of proof to establish disability from work for the period January 25, 2018 through June 19, 2020 causally related to his accepted October 6, 2014 employment injury.

FACTUAL HISTORY

On October 30, 2014 appellant, then a 53-year-old postmaster, filed a traumatic injury claim (Form CA-1) alleging that on October 6, 2014 he sustained a right shoulder rotator cuff tear when reaching over his head to open a stuck rural mailbox while in the performance of duty. He stopped work on October 7, 2014. By decision dated August 3, 2015, OWCP accepted the claim for temporary aggravation of right shoulder rotator cuff tear and right shoulder impingement. Appellant underwent OWCP-authorized right rotator cuff arthroscopic surgery with debridement on July 20, 2016. OWCP paid appellant wage-loss compensation on the supplemental rolls for the period July 20, 2016 to June 9, 2017.

Dr. John W. Ellis, a Board-certified family practitioner, in a February 6, 2018 report, provided a rating of permanent impairment of appellant's right upper extremity. He also noted that appellant had been temporarily totally disabled and had missed multiple days of work due to his right shoulder injury.³

By decision dated June 28, 2019, OWCP expanded the acceptance of the claim to include temporary aggravation of chronic regional pain syndrome (CRPS) type 1.

On June 29, 2020 appellant filed a claim for compensation (Form CA-7) claiming disability from work for the period January 25, 2018 through June 19, 2020.

In support of his claim for compensation, appellant submitted additional medical evidence including a July 17, 2019 report, wherein Dr. Ellis noted appellant's history of injury and medical treatment. He provided appellant's physical examination findings and diagnosed CRPS 1, right rotator cuff sprain, and right shoulder region dislocation. He opined that appellant has been totally disabled as of March 29, 2018 due to a worsening of his CRPS, which precluded most activities of daily living. Dr. Ellis also related that, as of March 29, 2018, appellant's CRPS contributed to his angina and heart pain, which then led to the recommendation that appellant stop work. He explained, "It is my medical opinion that his [CRPS] has caused the outpouring of stress chemicals, which has caused vasoconstriction of his coronary arteries, which caused his angina. It is my medical opinion that his [CRPS] in the right upper extremity, in and of itself, rendered him unable to continue working at this time."

³ By decision dated October 25, 2018, OWCP granted appellant a schedule award for 24 percent permanent impairment of the right arm. The period of the award ran from February 6, 2018 through July 15, 2019. By decision dated June 14, 2019, OWCP reissued the October 25, 2018 schedule award with a corrected pay rate. OWCP issued a direct payment for a pay rate adjustment on the supplemental rolls for the period February 6, 2018 to May 25, 2019.

In a September 24, 2019 report, Dr. Ellis diagnosed right shoulder and CRPS 1. He opined that appellant was totally disabled from work and unable to perform the duties of a postmaster for the period November 28, 2015 through June 9, 2017 due to those conditions.

In a development letter dated June 30, 2020, OWCP informed appellant that the evidence submitted was insufficient to support his claim for wage-loss compensation for the period January 25, 2018 through June 19, 2020. It afforded him 30 days to submit additional evidence to support his disability claim. No further evidence was received.

By decision dated August 27, 2020, OWCP denied appellant's claim for disability from work for the period January 25, 2018 through June 19, 2020.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim, including the fact that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁵ The term disability is defined as the incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of the injury.⁶ For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.⁷ Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of the reliable, probative, and substantial medical evidence.⁸

The medical evidence required to establish causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the claimed disability and the accepted employment injury.⁹

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is

⁴ *Supra* note 2

⁵ *C.B.*, Docket No. 20-0692 (issued May 26, 2021); *S.W.*, Docket No. 18-1529 (issued April 19, 2019); *B.K.*, Docket No. 18-0386 (issued September 14, 2018); *Amelia S. Jefferson*, 57 ECAB 183 (2005); *see also Nathaniel Milton*, 37 ECAB 712 (1986).

⁶ 20 C.F.R. § 10.5(f); *C.B.*, *id.*; *S.T.*, Docket No. 18-0412 (issued October 22, 2018); *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

⁷ *C.B.*, *id.*; *K.C.*, Docket No. 17-1612 (issued October 16, 2018); *William A. Archer*, 55 ECAB 674 (2004).

⁸ *C.B.*, *id.*; *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, 52 ECAB 291-92 (2001).

⁹ *C.B.*, *id.*; *K.H.*, Docket No. 19-1635 (issued March 5, 2020); *V.A.*, Docket No. 19-1123 (issued October 29, 2019).

claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.¹⁰

ANALYSIS

The Board finds that this case is not in posture for decision.

In a July 17, 2019 report, Dr. Ellis noted appellant's history of injury and medical treatment. He provided appellant's physical examination findings and diagnosed CRPS 1, right rotator cuff sprain, and right shoulder region dislocation. Dr. Ellis opined that appellant has been totally disabled as of March 29, 2018 due to a worsening of his CRPS, which precluded most activities of daily living. He also related that, as of March 29, 2018, appellant's CRPS contributed to his angina and heart pain, which then led to the recommendation that appellant stop work. Dr. Ellis explained, "It is my medical opinion that his [CRPS] has caused the outpouring of stress chemicals, which has caused vasoconstriction of his coronary arteries, which caused his angina. It is my medical opinion that his [CRPS] in the right upper extremity, in and of itself, rendered him unable to continue working at this time." He thereby specifically attributed appellant's disability from work to her accepted employment-related condition and explained how the accepted condition caused appellant's claimed disability.

It is well established that, proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.¹¹ While Dr. Ellis' July 17, 2019 report does not contain sufficient rationale to discharge appellant's burden of proof by the weight of the reliable, substantial, and probative evidence that her claimed disability was caused or aggravated by the accepted employment injury, this report raises an uncontroverted inference of causal relationship sufficient to require further development of the case record by OWCP.¹²

The Board, therefore, finds that the case must be remanded for further development of the medical evidence. OWCP shall refer appellant to a specialist in the appropriate field of medicine for a reasoned opinion regarding whether appellant's claimed disability was causally related to the accepted employment injury. If the physician opines that the claimed disability is not causally related to the accepted employment injury, he or she must explain with rationale how or why their opinion differs from that of Dr. Ellis. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

¹⁰ *C.B., id.*; *K.A.*, Docket No. 19-1564 (issued June 3, 2020); *J.B.*, Docket No. 19-0715 (issued September 12, 2019); *William A. Archer*, *supra* note 7.

¹¹ *M.A.*, Docket No. 19-0905 (issued January 26, 2021); *J.H.*, Docket No. 18-1637 (issued January 29, 2020). *See also A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

¹² *See M.A., id.*; *T.K.*, Docket No. 20-0150 (issued July 9, 2020); *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

CONCLUSION

The Board finds that this case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT August 27, 2020 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: January 24, 2022
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board